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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/055,349	01/25/2002	David Battat	D/A0898(1508/3480)	9621
7590	08/23/2004		EXAMINER	
Gunnar G. Leinberg, Esq. Nixon Peabody LLP Clinton Square P.O. Box 31051 Rochester, NY 14603-1051			CHARLES, MARCUS	
			ART UNIT	PAPER NUMBER
			3682	
			DATE MAILED: 08/23/2004	

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/055,349	BATTAT ET AL.	
	Examiner Marcus Charles	Art Unit 3682	MW

— The MAILING DATE of this communication appears on the cover sheet with the correspondence address —
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on Amendment/RCE filed 02-02-04 & 06-04-04.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-9 and 15-23 is/are pending in the application.
 - 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-9 and 15-23 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 25 January 2002 is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ . |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ . |

DETAILED ACTION

This action is responsive to the Amendment/RCE filed 02-20-2004 & 06-04-2004, which have been entered. Claims 1-9 and 15-23 are currently pending.

Continued Examination Under 37 CFR 1.114

1. The request filed on 06-04-2004 for a Request for Continued Examination (RCE) under 37 CFR 1.114 based on parent Application No. 10/055,349 is acceptable and a CPA has been established. An action on the RCE follows.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.
3. Claims 1-9 and 15-23 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claims 1-2, 15 and 16, the claims recited "the geometric relationship" and it is not clear as to what geometrical relationship is being referred too. In addition, there is no antecedent basis for "the geometric relationship".

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Art Unit: 3682

5. Claims 1, 6, 10 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dalebout et al. (5,951,441). Nordengren (4,063,463). Dalebout et al. discloses a belt comprising a substrate (18/50) having a first and second surfaces and first and second ends, which form a seam, an elastomeric (20/30) having first and second ends and surfaces, wherein the elastomer is adjacent and in contact with the first surface of the substrate and the first and second ends of the elastomer form an interlocking puzzle cut seam (col.4, lines 26-34). Dalebout et al. do not disclose the first and second ends are mechanically interlocked together by a geometric relationship between the ends. Nordengren discloses a belt having a first and second ends with interlocking puzzle cuts seam that are mechanically locked together by a geometric relationship in order to frictionally lock the ends of the belt and to form a very strong joint. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the seam of Dalebout et al. to include the puzzle cut of Nordengren in order to frictionally lock the ends of the belt together and to form a very strong joint.

In claims 6 and 20, Dalebout discloses the first seam is bonded with an adhesive (col. 5, lines 5-15).

Note in claim 10, Dalbout et al. clearly discloses that the ends 56/58 can be bonded by adhesive and tapes (Col. 5, lines 9-15).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 2-3 and 15-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dalebout et al. in view of Nordengren as applied to claim 1 and further in view of Driver (1,728,673). Dalebout et al. in view of Nordengren discloses one seam is mechanically interlocked but does not disclose both of the first and second seams are interlocked. Driver discloses a belt with adjacent materials (1, 2) in contact with each other having interlocking ends in order to create a smooth, flat surface to an strengthen the seamed joints. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the belt of Dalebout so that both seamed joints are interlocking joints in view of Driver in order to create a smooth, flat surface and to an strengthen the seamed joints.

In claim 3, it is apparent that each interlocking seam includes a kerf (5) so as to allow the adhesive to seal the ends. (fig. 1).

In claims 15-17, it is apparent that the method steps would be inherently included during the manufacturing of Dalebout et al. in view of Nordengren and Driver device.

Claims 4-5, 7-9, and 18-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dalebout et al. in view of Nordengren. Dalebout and Nordengren do not disclose the belts modulus of elasticity and thickness, the elastomeric layer thickness and the dimensional range of the nodes and seam. It

would have been obvious to one of ordinary skill in the art at the time of the invention to modify the belt so that it has a modulus of elasticity of 75PSI to about 3000Psi, the belt has thickness of 0.25 mm to about 5mm mm, the elastomeric layer has a thickness of 0.25 mm to about 4.75 mm, the diameter of the nodes from about 0.6 to about 3mm ands the nodes are in the range of 10 to about 20 nodes per long along the seams since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Shaffer (6,321,903) and Welch (2,792,318) disclose a belt having a joint seam with ends mechanically interlocking with each other.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marcus Charles whose telephone number is (703) 305-6877. The examiner can normally be reached on Monday-Thursday 7:30 am to 6:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Bucci can be reached on (703) 308-3668. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.



Marcus Charles
Primary Examiner
Art Unit 3682
August 11, 2004